

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION

FILED

DEC 27 2010

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

ANTHONY WILLIAMS,
PETITIONER,

v.

J. Ziegler
[REDACTED]

DEFENDANT.

Civil Action No. 5:10-1413

Summary

1) The Plaintiff is being subjected to a second hand from from staff at F.C.I. Beckley and inmates. F.C.I. Beckley is a "tobacco free" institution, but some staff officers are permitted to smoke within ten feet of the inmates units.

Plaintiff has a Constitutional right to be free of environmental tobacco smoke (ets) that pose a risk of future harm. Thus said action has damaged the Plaintiff and is continuing to harm him. Plaintiff has completely exhausted all his remedies and now presents these issues of controversy to the Court.

Jurisdiction

2) This Court has jurisdiction over the Plaintiff's claims of violations of the usa Constitutions as part of the Plaintiff's God given rights. 28 USC 1331 Bivens vs. Six Unknowns.

Parties

3) Plaintiff is an inhabitant of West Virginia state, an inmate housed at Federal Correction Institution Beckley (FCI Beckley) in Raleigh County. Is at all times relevant to the allegations of this complaint.

4) At all times relevant to this action, Defendant D.J. Harmon, doing business as Acting Warden at FCI Beckley, as an agent, servant of the United States Department of Justice violated the Plaintiff's usA Constitutional rights by exposing him to second hand smoke.

5) At all times relevant to this action "unknown" officers of FCI Beckley doing business as correctional officers, and agents servants of the United States Department of Justice. Violated the Plaintiff's usA Constitutional rights by exposing him to second hand smoke subjecting him to further harm in violation of his 8th Amendment rights. Constitutes "cruel" and "unusual" punishment. These "unknown" officers are sued in their individual capacity.

6) Upon Plaintiff's arrival at FCI Beckley since May of 2010 to this present date and time he has been subjected to second hand smoke from less than 10 from his unit by "unknown" officers at FCI Beckley who smokes everyday outside of his unit without regard to others or where they blew their smoke.

7) To prove Constitutional violations the Plaintiff must prove not only that the level of ETS to which he is exposed is unreasonably high, but also that "unknown" Beckley officers have shown "deliberate indifference", indifference to the health risks associated with the second-hand smoke. The existence or non-existence of a prison no smoking policy factors into the Court's inquiry into deliberate indifference. Jordan v. New Jersey Department of Corrections, 881 F. Supp. 947, 952 (D.N.J. 1995).

8) Plaintiff is still suffering everyday from second hand smoke by "unknown" Defendants which are causing him medical issues. Thus he is a damaged party. Said Defendants conduct was both "knowingly and willingly". Plaintiff rightfully seeks damages from each of these Defendants as stated in 1-8. The exposure to ETS and "dehumanizing" living conditions cannot be constituted to be in good faith on the part of the Defendants. Therefore they should be held liable for their actions. The Plaintiff is unaware of the names of the "unknown" officers who smoke everyday outside his unit less than 10 feet away from the inmates including the Plaintiff. The names of the officers who smoke would have to be given to the Court by the Defendant D.J. Harmon. Considering they are his officers/staff. Plaintiff would do what he can to help in this matter as needed.

9) Last, Plaintiff has completely exhausted all of his remedies on this issue in good faith without any success. Thus we have a controversy in this matter that demands a jury trial. Plaintiff now seeks justice for the "willful" actions of the Defendants.

Claims

Bivens vs. Knowns
8th Amendment usA Constitution

10) As stated in 1-9. Defendant D.J. Harmon "knowingly and willingly" violated the Plaintiff's Constitutional rights thus leaving him a damaged party.

Claims

Bivens vs. unknowns
8th Amendment usA Constitution

11) As stated in 1-10 "unknown" officer Defendants of FCI Beckley "knowingly and willingly" violated the Plaintiff's Constitutional rights, thus leaving him a damaged party.

Prayer

Wherefore, Plaintiff prays that this Court:

A: Enter judgment in Plaintiff's favor against Defendant's D.J. Harmon and each "unknown" officer Defendant for violations in 1-11 for Ten Million Dollars in compensatory and punitive damages. Holding each defendant jointly and severally liable to the Plaintiff.

B: Enter Judgment "order" prohibiting "unknown" officers at FCI Beckley from any smoking by the inmates units or on the compound. Enter Judgment "order" prohibiting D.J. Harmon from placing Plaintiff in "dehumanizing" situations.

C: Enter Judgment "order" prohibiting any of the Defendants or staff members of FCI Beckley to retaliate against the Plaintiff.

D: Award reasonable attorney, paralegal fees, court cost to Plaintiff and any other relief the court deems.

Jury Trial Demand

Plaintiff demands a trial by jury on all claims in this complaint triable by this Court. All facts, claims, are true and correct under the penalty of perjury under the laws of the usa "without the USA". 28 USC 1746 (1).

Respectfully Submitted,

Anthony Williams

Anthony Williams
Reg No. 14797-041
FCI Beckley
P.O. Box 350
Beaver, WV 25813

September 20, 2010

Anthony Williams
Reg. No. 14797-041
FCI Beckley
P. O. Box 350
Beaver WV, 25813

10 - 11 - 2010

Teresa L. Deppner, Clerk
U.S. District Court
Southern District of West Virginia
Office of the Clerk
110 N. Heber Street
Beckley, West Virginia 25813

Dear Ms. Deppner:

Please attach this letter as well the attachment to the civil action, because it's proof as well as evidence that staff and officers are bring^{ing} Contraband on the facility grounds. Inmate Admission and Orientation Handbook FCI / FPC Beckley, WV. Page six Smoking. FCI Beckley does not conduct Smoking Cessation program! Also see page eleven "Contraband". I'm a non-smoker all of my life.

Sincerely,

Anthony Williams

P.S.

Inmates are drying chewing tobacco in the ~~microwave~~ microwave which is a health issue with "cleanliness and sanitation". Why is FCI- Beckley staff exempt from the Federal Smoking banned law? If it's outlawed for one citizen it should be for all!

052 INCIDENT REPORT (FORM)

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

1. Name Of Institution: FCI Beckley

Part I - Incident Report

2. Name Of Inmate Brown, Levargess	3. Register Number 10349-041	4. Date Of Incident 08-13-2010	5. Time 2010 P.M.
6. Place Of Incident Poplar B Lower Front Door	7. Assignment Yard P.M.	8. Unit Poplar B Lower	
9. Incident: Possession Of anything not authorized			10. Code: 305

11. Description Of Incident (Date: 08-13-10 Time: 2010 pm) Staff become aware of incident)

On 13 August 2010 at approximately 2010 hours, I Correctional Officer T. Elmore Was outside of Poplar B Lower where I was conducting pat searches of inmates returning as I conducted a pat search of inmate Levargess Brown 10349-041 I checked his dust pan which he had because of his yard job. In this dust pan I discovered eleven cigarette butts and a battery with white string on it which was very sticky. Also in the right front pants pocket I found a gambling slip.

12. Signature Of Reporting Employee <i>T. Elmore</i>	Date And Time 08/13/10 2045	13. Name And Title (Printed) T. Elmore Correctional Officer	
14. Incident Report Delivered To Above Inmate By <i>[Signature]</i>	15. Date Incident Report Delivered <u>8/14/10</u>	16. Time Incident Report Delivered <u>1:00 PM</u>	

Part II - Committee Action

17. Comments Of Inmate To Committee Regarding Above Incident

"Staff didn't know them around, I wouldn't have them."

18. A. It Is The Finding Of The Committee That You:
☒ Committed The Following Prohibited Act. 305☐ Did Not Commit A Prohibited Act.B. ☐ The Committee Is Referring The Charge(s) To The DHO For Further Hearing.C. ☒ The Committee Advised The Inmate Of Its Finding And Of The Right To File An Appeal Within 15 Calendar Days.

19. Committee Decision Is Based On The Following Information

*Report heard on 4th day due to Schedule.
Based on the written report of staff and your admission, UDC finds you guilty.*

20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act)

LP Comm 90 days. Suspended pending 150 days clear conduct

21. Date And Time Of Action 8/19/10 9:50 am (The UDC Chairman's Signature Next To His Name Certifies Who Sat On The UDC And That The Completed Report Accurately Reflects The UDC Proceedings)*[Signature]*
Chairman (Typed Name/signature)*F. Likat*
Member (Typed Name)_____
Member (Typed Name)

Record Copy - Central File Record; Copy - DHO; Copy - Inmate After UDC Action; Copy - Inmate Within 24 Hours Of Part I Preparation
(This Form May Be Replicated Via WP)

Replaces BP-288(52) Of Jan 88

REQUEST FOR ADMINISTRATIVE REMEDY

"Sensitive Issues"

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Williams, Anthony I	14797-041	RBU	FCI-BECKLEY
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

The following BP-9 is being brought against FCI Beckley on the grounds of Medical Negligence, as well as violations of BOP Program Statement 3420.09 Standards of Employee Conduct. Additionally, the requester is being subjected to second hand smoke by staff and inmates. This is a health issue in the realm of "cleanliness and sanitation." Due to the inaction of FCI Beckley Staff as well as violations of various program statements a full investigation of said issues is being asked by the requester.

Statement of facts:

As an inmate at FCI Beckley the requester has been subject to several Inmate requests to Staff being ignored. Then when staff finally acknowledges the issue they do so by placing you on a callout without actually responding to submitted Inmate Request form. The requester addressed this issue with Dr. Ellis the head of the Psychology and Pyschiatry Dept. Dr Ellis treated the requester very disrespectfully, loudly and threatened to send the requester to segregation. The requester is not the only inmate who has been treated this way by Dr. Ellis. Such action violated Program Statement 3420.09 § 5100.08 Unpro-

11-3-2010

DATE

Anthony Williams

SIGNATURE OF REQUESTER

Part B- RESPONSE

I guess tobacco is only contraband when inmates find staff Cigarette butts and saliva coated used Chew?! Smoking is an addiction. Why are staff allowed to entice inmates to smoke, lose good time, and go to segregation because staff are allowed to bring contraband "Tobacco Products" in the prison? FCI-Beckley staff needs a smoking cessation program for nicotine replacement therapy!

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

THIRD COPY: RETURN TO INMATE

CASE NUMBER: 013917-11

CASE NUMBER:

Part C- RECEIPT

Return to:				
	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION
SUBJECT:				

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

Page Two BP-229(13) Williams, Anthony I #14797-041 FCI-BECKLEY
fessional conduct, abusive language... He additionally called the requester
a stalker and claimed that the requester was harrassing Dr. Martin by send-
ing copouts which is within his rights. (See page 35 Program Resolution
in FCI-Beckley Inmate Handbook. Said request was necessary at the time not
two or more weeks later.

The requester has additionally been subjected to being given the wrong
injection with a prefilled syringe. A PCP staff member lied saying the req-
uester felt uncomfortable with taking a medication used as a sleepaid. The
requester has also been denied a Dental Hygienist for over a year as such
is not even employed by this institution which violates the requesters right
to preventitive dental care.

The requester is being subjected to second hand smoke by staff and
Inmates at FCI Beckley. First, tobacco is not allowed in the Institution
and as such this shouldn't be an issue. However, staff smokes less than
10 feet away from inmates. Staff also does not properly dispose of their
cigarette butts and used chewing tobacco which is then dried in the microwave.
Both are smoked in the living units and the smoke flows through the vents.

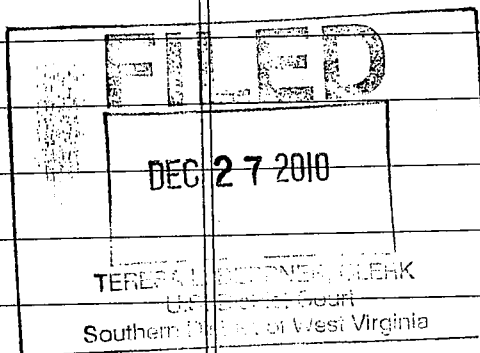
Relief Requested

The requester asks that due to being 804 miles away from his release
residence which is not in accordance with the 500 mile policy in Program
Statement 5100.08 as well as the issues proffered that the requester be
transferred to a facility within his region.

Corrections: There hasn't been a Dental Hygienist at FCI
Beckley for about a year or more.

A PCP staff member lied about when I stop taking a
depress / sleepaid medication he also lied about the whole
Conversation that he said we had. I'm sure that it's
documented when I stop taking the sleepaid.

Anthony Williams
14797-041



Anthony Williams
Reg. NO. 14797-041
FCI - Beckley, WV.
PO Box 350
Beaver, WV. 25813

12-31-10

Magistrate Judge Stanley / Magistrate Judge VanDervort
United States District Court
Southern District of West Virginia
Chambers of Magistrate Judge Stanley Magistrate Judge
VanDervort
110 Heber street
Beckley, West Virginia 25813

Dear Your Honor: Joseph R. Goodwin Chief Judge

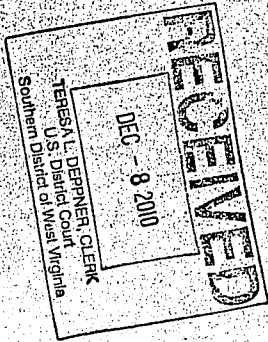
The reason for this letter is to make you
aware of my civil action concern Second Hand Smoke
and evidence for my civil action No. 5:10-1193.

Honorable Goodwin I hope I get a respond from
the Office of the Clerk with an Civil Action NO.
for the Second Hand Smoke soon. Sir I would like
to thank you for your time in advance. Sir it's
more evidence attached to my Second hand smoke and a
new defendant "Warden"!

Sincerely

Anthony Williams

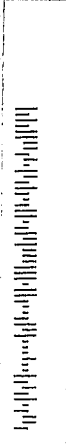
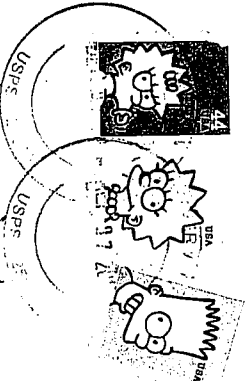
Anthony Williams
Cell No. A-197-041
West RCU Cell 409
Federal Correctional Institution-Beckley
PO Box 350
Beaver, WV 25813

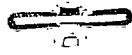


To: ~~Joseph R. Goodwin~~ Chief Judge
C10

Magistrate Judge Stanley / Magistrate Judge
U.S. District Court
Southern District of West Virginia
Office of the Clerk
110 N. Heber Street
Beckley, West Virginia

~~25813~~
25801





FEDERAL CORRECTIONAL INSTITUTION
RECEIVED
PO BOX 1290
BRATTLEBORO VT 05703
DATE 12-4-10
NO POSTAGE
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